

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-10659

Liberty Mutual Insurance Company

v.

The Black & Decker Corporation, et al

CLERK'S CERTIFICATE

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 2/11/05.

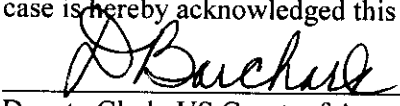
In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 14, 2005.

Tony Anastas, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/14/05


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-10659-DPW**

Liberty Mutual v. Black & Decker re: BROS Site Date Filed: 04/02/2004
Assigned to: Judge Douglas P. Woodlock Jury Demand: Both
Cause: 28:1332 Diversity-Insurance Contract Nature of Suit: 110 Insurance
Jurisdiction: Diversity

Plaintiff

Liberty Mutual Insurance Company represented by **Deborah E. Barnard**
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V.

Defendant

**Black & Decker
Corporation**

Defendant

Black & Decker, Inc.

Defendant

Black & Decker (U.S.) Inc.,

Defendant

Emhart Corporation

Defendant

Emhart, Inc.

Counter Claimant

Black & Decker (U.S.) Inc., represented by **Jack R. Pirozzolo**
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Counter Claimant

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Counter Claimant

Black & Decker, Inc. represented by **Jack R. Pirozzolo**
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Counter Claimant

Emhart Corporation represented by **Jack R. Pirozzolo**
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Counter Claimant

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V.

Counter Defendant**Liberty Mutual Insurance
Company**

Date Filed	#	Docket Text
04/02/2004	<u>1</u>	COMPLAINT Filing fee: BRIDGEPORT RENTAL AND OIL SERVICES (BROS SITE), filed by Liberty Mutual Insurance Company.(Rynne, Michelle). (Entered: 04/05/2004)
04/02/2004		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Cohen. (Rynne, Michelle) (Entered: 04/05/2004)
04/16/2004	<u>2</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against Liberty Mutual Insurance Company by Black & Decker (U.S.) Inc., Black & Decker Corporation, Black & Decker, Inc., Emhart Corporation, Emhart, Inc..(Pirozzolo, Jack) (Entered: 04/16/2004)
05/17/2004	<u>3</u> 08	MEMORANDUM re: DESCRIPTION OF POSTURE OF BROS, HUTH AND BERKS/DOUGLASSVILLE CLAIMS WITH FURTHER AUTHORITY by Black & Decker (U.S.) Inc., Black & Decker Corporation, Black & Decker, Inc., Emhart Corporation, Emhart, Inc.. (Attachments: # <u>1</u> Attachment)(Pirozzolo, Jack) Modified on 5/19/2004 (Rynne, Michelle). (Entered: 05/17/2004)
05/17/2004	<u>4</u>	NOTICE by Black & Decker (U.S.) Inc., Black & Decker Corporation, Black & Decker, Inc., Emhart Corporation, Emhart, Inc. <i>of Filing with Clerk's Office of Appendix</i> (Pirozzolo, Jack) (Entered: 05/17/2004)

05/17/2004	<p>25 Response by Liberty Mutual Insurance Company <i>BROS Renewed Summary Judgment Submission</i>. (Attachments: # 1 Exhibit Tab 2 through 3# 2 Exhibit Tab 4# 3 Exhibit Tab 5 through 7# 4 Exhibit Tab 8 through 9# 5 Exhibit Tab 9 (part 2)# 6 Exhibit Tab 9 (part 3)# 7 Exhibit Tab 10 through 13# 8 Exhibit Tab 14 (pages 1-29)# 9 Exhibit Tab 14 (pages 30-59)# 10 Exhibit Tab 14 (pages 60-62)# 11 Exhibit Tab 15 (exhibit a)# 12 Exhibit Tab 15 (exhibits b through d)# 13 Exhibit Tab 15 (exhibits e through g)# 14 Exhibit Tab 15 (exhibit h part 1)# 15 Exhibit Tab 15 (exhibit h part 2)# 16 Exhibit Tab 15 (exhibit h part 3)# 17 Exhibit Tab 15 (exhibit h part 4)# 18 Exhibit Tab 15 (exhibit h part 5)# 19 Exhibit Tab 15 (exhibits i through m)# 20 Exhibit Tab 15 (exhibit n part 1)# 21 Exhibit Tab 15 (exhibit n part 2))(Lepore, Ralph) (Entered: 05/17/2004)</p>
05/20/2004	<p>26 Response by Liberty Mutual Insurance Company to <i>Counterclaim</i>. (Lepore, Ralph) (Entered: 05/20/2004)</p>
01/13/2005	<p>27 Judge Douglas P. Woodlock : MEMORANDUM AND ORDER entered pursuant to which summary judgment is GRANTED to Liberty Mutual establishing no duty to defend or to indemnify as to the BROS site. Judgment for the plaintiff will enter forthwith. (Woodlock, Douglas) (Entered: 01/13/2005)</p>
01/13/2005	<p>28 Judge Douglas P. Woodlock : ORDER entered. JUDGMENT in favor of Plaintiff against Defendant. JUDGMENT for Liberty Mutual Insurance Company against the Defendants on Count 1 of the Complaint; Counts II and III of the Complaint are hereby dismissed as moot in view of the entry of judgment for Liberty Mutual Insurance Company on Count 1 of the Complaint. The Counterclaim of the Defendants against the Plaintiff is dismissed. Pursuant to Fed. R. Civ. P. 54(d)(1), Plaintiff shall recover costs, other than attorney's fees.(Rynne, Michelle) (Entered: 01/13/2005)</p>

		01/13/2005)
02/11/2005	99	NOTICE OF APPEAL as to 7 Order,, 8 Judgment,, by Black & Decker, Inc., Black & Decker (U.S.) Inc.,, Emhart Corporation, Emhart, Inc., Black & Decker (U.S.) Inc.,, Black & Decker Corporation, Black & Decker, Inc., Emhart Corporation, Emhart, Inc., Black & Decker Corporation. \$ 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 3/3/2005. (Pirozzolo, Jack) (Entered: 02/11/2005)